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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,910	08/31/2001	J. Stuart Cumming	13533.4030	2364

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IP PROSECUTION DEPARTMENT
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EXAMINER

PRONE, CHRISTOPHER D

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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01/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/943,910

Applicant(s)

CUMMING, J. STUART

Examiner

Christopher D. Prone

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-13 and 16-60 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,5-8,16,18-20,23,24,28,29,56 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-13,17,21,22,25-27,30-55,57,59 and 60 is/are rejected.
- 7) ☒ Claim(s) 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 56 and 58 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species B shown in figure 8 in the action mailed on 1/29/07 (see cover sheet section 4a). Applicant is required to correct the prefix to read "withdrawn" for both claims 56 and 58.

Claim Objections

Claim 44 objected to because of the following informalities: it remains dependent upon a cancelled claim. The examiner believes that the applicant intended claim 42 to be dependent off of claim 34. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-13, 17, 21, 22, 25-27, 34-41, and 50-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 9, 25, 34, 50, and 60 all have been amended to require that the haptics have "narrow edges and wider anterior and posterior sides". The examiner is unclear what parts of the haptic the applicant is referring to. Does the applicant mean that the edge around the entire haptic is thinner than the central portion of the haptic?

Art Unit: 3738

This is not shown in the figures nor is it supported in the specification. The applicant is advised to clarify this subject matter or delete it from the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-13, 17, 21, 22, 25-27, 30-55, 57, 59, and 60, are rejected under 35 U.S.C. 102(b) as being anticipated by Dahan (UPSN 5,078,742).

With reference to Figures 1 and 2 Dahan discloses a biconvex intraocular lens comprising a single optic 12 having anterior and posterior sides and multiple plate haptics 14 and 16 extending from the edge of the optic. The haptics have a thin groove portion 18 adjacent the optic that enables the optic to move anteriorly and posteriorly. In Figure 1 it is clear that the lateral edges of haptics are tapered inwardly from the haptic. Dahan further discloses protuberances 28 that extend laterally anteriorly, posteriorly and laterally from the haptic.

In regards to the applicant's amendment requiring separate plate haptics the examiner is interpreting this as meaning two distinct plate haptics. Dahan clearly refers to haptics 14 and 16 as being distinct. Applicant is advised to amend the claims to recite that the narrow groove extends completely across the entire plate surface and that the haptics do touch each other.

Response to Arguments

Applicant's arguments filed 11/16/07 have been fully considered but they are not persuasive. The applicant argues that the amendments overcome the art of record.

However as stated above the applicant's amendment requiring separate plate haptics is being interpreting by the examiner as meaning two distinct plate haptics. Dahan clearly refers to haptics 14 and 16 as being distinct. Applicant is advised to amend the claims to recite that the narrow groove extends completely across the entire plate surface and that the haptics do touch each other.

Applicant is also reminded to change the status identifier for claims 56 and 58 to say withdrawn.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3738

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone
Examiner
Art Unit 3738


CDP


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